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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,879	04/05/2001	Daniel Patrick Connors	Y OR92000070	3754
21254 7590 11/12/2008 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
EXAMINER				
SHEIKH, ASEAND M				
ART UNIT		PAPER NUMBER		
3627				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/825,879

Applicant(s)

CONNORS ET AL.

Examiner

Asfand M. Sheikh

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 21-26 and 28-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 21-26, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

The amendment filed on 7/15/2008 has been entered. The examiner notes that claims 1-13 and 21-26 and 28-40 are pending for examination. The examiner further notes that Claim 1 and been added claims 28-30 have been newly added and Claim 27 has been cancelled.

Response to Arguments

Applicant's arguments with respect to claim 1-13 and 21- 26 and 28-29 are have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

Newly submitted claim 30 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: drawn to a hand-held unit for restocking and reprising merchandise, which is classified under 705/1.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 30 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-13 and 21- 26 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartzel et al. (US 6,552,663 B2) in view of Martin (US 5,575,100) and Johnson (US 6,624,757 B1).

Claims 1 and 13

Swartzel discloses a system for restocking and repricing merchandise (see at least, col. 3, lines 51-52: the examiner notes updating the display information (e.g. with price changes) and col. 9, lines 9-24: the examiner notes the LED (e.g. tag) display may change to flashing "here" to assist during stocking operations), comprising a shelf label identifying a section of the shelf (see at least, col. 3, lines 16-36 and FIG. 1: the examiner notes a front rail of a shelf has a plurality of display tags); a shelf label holder which holds said shelf label and comprises illuminating device including a plurality of illuminating sections (see at least, col. 3, lines 16-22: the examiner notes a plurality of LED (e.g. display tag) disposed along the front rails of display shelves and col. 9, lines 9-24: the examiner notes the LED (e.g. display tag) display may change to flashing "here" to assist during stocking operations) and a hand-held unit which remotely causes said illuminating device to illuminate said label (see at least, col. 9, lines 9-24: the examiner notes the LED (e.g. tag) display may change to flashing "here" to assist during

stocking operations), wherein said illuminating of said label corresponds respectively to a shelf location (see at least, col. 9, lines 9-24: the examiner notes the LED (e.g. tag) display may change to flashing "here" to assist during stocking operations).

Swartzel fails to disclose a shelf label including information printed on said label and a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections.

However, Marvin discloses an electronic shelf label including information printed on said shelf label (see at least, col. 3, lines 4-11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Swartzel's illuminating shelf to include an electronic shelf label including information printed on said shelf label as taught by Johnson. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide protective cover including an electronic display module for displaying price information having first and second sides and a front side and a display tag between the electronic display module and the protective cover for displaying information other than price, without obscuring the price information (see at least, Marvin, col. 1, lines 44-52).

Swartzel in view of Marvin fails to disclose a shelf label holder comprising a illuminating device with a plurality of illuminating sections

However, Johnson discloses a shelf label holder comprising a illuminating device with a plurality of illuminating sections (see at least, col. 2, lines 28-30; and col. 3 line 54-col. 4, line 12: the examiner notes the display strip is an LED display with adjustable

display sections and for example in FIG. 2C: the examiner notes the side view of a shelf with an attached display strip).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Swarzel in view of Martin's illuminating shelf with printed/electronic tags to include a shelf label holder comprising an illuminating device with a plurality of illuminating sections as taught by Johnson. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide a product information and price display device for a retail product shelves which does not have to be relocated as products are relocated within the store (see at least, Johnson, col. 1, lines 55-58).

Claim 2

Swartzel discloses further comprising: a host controller for storing merchandise data and planogram data (see at least, col. 7, line 65-col. 8, line 1: the examiner notes the system controller (TSC) contains a planogram which identifies position of each product within the store), processing said data and remotely controlling an operation of said hand-held unit and said shelf label holder (see at least, col. 3, line 37-43: the examiner notes the TSC controls LED (e.g. display tag) information and col. 5, lines 55-64: the examiner notes the TSC can communicate with a portable scanner/portable wireless terminal).

Claim 3

Swartzel discloses wherein a shelf control unit for controlling an illumination of said illuminating device (see at least, co. 9, lines 9-33: the examiner notes the TSC sends a signal for illumination of the illuminating device).

Swartzel in view of Martin fails to disclose a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections.

However Johnson discloses a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections (see at least, col. 3 line 54-col. 4, line 5: the examiner notes the display strip is an LED display with adjustable display sections and FIG. 2C: the examiner notes the side view of a shelf with an attached display strip).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Swartzel in view of Martin include a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections as taught by Johnson. One of ordinary skill in the art would have been motivated to combine the teachings in order provide product information and price display device for retail product shelves which does not have to be relocated as products are relocated within the store (see at least, Johnson, col. 1, lines 55-58).

Claim 4

Swartzel discloses wherein an identifying section of said shelf label is inserted into said shelf control unit (see at least, col. 3, lines 36-54: the examiner notes the loop within the TSC would be range of control and include any identifying tag within the range of control for the TSC therefore this would be the inserted label into the shelf control unit).

Claim 5, 6, 7, and 9

Swartzel discloses wherein said shelf control unit comprises: a receptacle for receiving said identifying section of said shelf label see at least, col. 3, lines 36-54: the examiner notes the loop within the TSC would be range of control and include any identifying tag within the range of control for the TSC therefore this would be the inserted label into the shelf control unit); and a transceiver for transmitting signals to said host controller and said hand held unit and receiving signals from said host controller and said hand held unit (see at least, col. 9, lines 9-33: the examiner notes the communication back and forth between LED (e.g. display tag) tag, hand-held unit, and TSC for finding the location), a display device for displaying merchandise data and planogram data (see at least, col. 9, lines 33-32: the examiner notes a display on the hand-held device for merchandise/planogram data (see at least, col. 9, lines 58-65)), at least one of a bar code scanner and a keypad for inputting said data into said hand held unit (see at least, col. 9, lines 9-33: the examiner notes a UPC is scanned); and a memory for storing data (see at least, col. 5, lines 55-64: the examiner notes a portable wireless terminal would contain memory).

Claim 8

Swartzel discloses wherein said merchandise information comprises vendor information data and inventory data (see at least, col. 4, line, 64-col. 5, line 12: the examiner notes UPC description and general inventory information), and wherein said planogram data comprises correct merchandise shelf locations (see at least, col. 9, lines 9-67).

Claim 10

Swartzel discloses wherein said identifying section comprises at least one of a bar code, a radio frequency identification (RFID) tag and a magnetic identification tag (col. 9, line 9-33: the examiner notes the UPC would be a bar code).

Claim 11

Swartzel discloses wherein said illuminating section comprises at least one of a light-emitting diode, an organic light emitting diode, a liquid crystal display element, a plasma display element, an incandescent light bulb and a light pipe (see at least, col. 9, line 9-33).

Claim 12 and 28

Swartzel discloses wherein said signals comprise at least one of a radiowave signal (e.g. wireless) and infrared signal (see at least, col. 9, line 9-33: examiner notes RF is a radio wave).

Claim 21

Swartzel discloses wherein said illuminating device is formed along a longitudinal edge of said shelf label holder (see at least, FIG 1: "20").

Claim 22

Swartzel discloses wherein said illuminating device comprises a plurality of light-emitting diodes (LEDs) (see at least, col. 9, line 9-33).

Claim 23

Swartzel discloses wherein said shelf label holder is connected to one of an upper and lower surface of a shelf for displaying said items of merchandise (see at least, FIG. 1).

Claim 24, 25, and 26

Swartzel discloses wherein said locations on said shelf correspond respectively to items of merchandise, and wherein an illuminating section of said plurality of illuminating sections is individually illuminated to indicate a location on said shelf which corresponds to said illuminating section, for one of restocking and repricing of an item of merchandise which corresponds to said location on said shelf (see at least, col. 3, lines 51-52: the examiner notes updating the display information (e.g. with price changes) and col. 9, lines 9—67).

Swartzel in view of Martin fails to disclose a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections.

However Johnson discloses a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections (see at least, col. 3 line 54-col. 4, line 5: the examiner notes the display strip is an LED display with adjustable display sections and FIG. 2C: the examiner notes the side view of a shelf with an attached display strip).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Swartzel in view of Martin to include a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections as taught by Johnson. One of ordinary skill in the art would have been motivated to combine the teachings in order provide product information and price display device for retail product shelves which does not have to be relocated as products are relocated within the store (see at least, Johnson, col. 1, lines 55-58).

Claim 29

The examiner notes Claim 29 is rejected under similar grounds as noted for claims 11-13 and 21-26 and 28-29.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Asfand M. Sheikh/
Examiner, Art Unit 3627
11/7/08

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627